

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LAUREN TRATAR and)	
STEVEN OLSON,)	
)	Case No. 10 CV 7063
Plaintiffs,)	
)	
)	Judge Lefkow
v.)	Mag. Judge Finnegan
)	
BAC HOME LOANS SERVICING, LP,)	
)	
Defendant.)	

**DEFENDANT BAC HOME LOANS SERVICING, L.P.'S
MOTION TO DISMISS PLAINTIFFS' COMPLAINT**

Defendant BAC Home Loans Servicing, L.P. ("BAC"), through undersigned counsel and pursuant to Fed. R. Civ. P. 12(b)(6), move to dismiss Plaintiffs Lauren Tratar and Steven Olson's ("Plaintiffs") Complaint for failure to state a claim upon which relief can be granted. In support of this Motion, BAC states as follows:

1. On November 2, 2010, Plaintiffs filed their complaint against BAC (the "Complaint"). [Dkt. # 1.]
2. Plaintiffs' Complaint asserts the following causes of action: (1) unjust enrichment; (2) "quiet title;" (3) "breach of the implied covenant of good faith and fair dealing;" (4) "breach of fiduciary duty;" (5) "negligence / negligence per se;" (6) "common law fraud;" (7) "fraud by non-disclosure;" (8) "violation of Truth in Lending Act" ("TILA"); (9) intentional infliction of emotional distress ("IIED"); and (10) "unfair business practices."
3. Plaintiffs' Complaint is completely devoid of specific facts and is legally deficient. Moreover, Plaintiffs' negligence, TILA and IIED claims are all time-barred because they failed to bring them within the requisite statutory period.

4. For all the foregoing reasons, as well as the reasons stated in the accompanying Memorandum of Law, BAC Home Loans Servicing, L.P. respectfully requests that this Court: (1) grant its Motion to Dismiss Plaintiffs' Complaint in its entirety; (2) dismiss all of Plaintiffs' claims with prejudice; and (3) order such other and further relief as is just and necessary.

Dated: December 15, 2010

Respectfully submitted,

BAC HOME LOANS SERVICING, LP

By: /s/ Steven R. Smith
One of Its Attorneys

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CERTIFICATE OF SERVICE

I, Steven R. Smith, an attorney, certify that I filed the foregoing document via the Court's ECF system, and caused a copy of same to be served on the following individuals below, via U.S. Mail, on this the 15th day of December, 2010:

Steven Olson and Lauren J. Tratar
1021 Royal Saint George Drive
Naperville, Illinois 60563

/s/ Steven R. Smith
Steven R. Smith